

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANTS: Anderson, Thomas Michael, et al. EXAMINER: Wasel, Mohamed

SERIAL NO.: 10/044,555

GROUP: 2154

FILED: January 11, 2002

CASE NO.: CE04890N

TITLED: Dynamic CAN Bus System Configuration and Messaging

Motorola, Inc.
Corporate Offices
1303 E. Algonquin Road
Schaumburg, IL 60196

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Please consider the following Reply Brief for the above identified patent application assigned to Motorola, Inc. pursuant to the Final Office Action dated December 12, 2006, Amendment dated January 23, 2007, Advisory Action dated February 13, 2007, Appeal filed April 11, 2007, Appeal Brief filed June 11, 2007, Revised Appeal Brief filed October 23, 2007 and Examiner's Answer January 9, 2008.

I. REAL PARTY IN INTEREST

It is agreed that Motorola, Inc., the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

To Appellants' knowledge, there continue to be no related appeals or interferences.

III. STATUS OF CLAIMS

The status of the claims is agreed to.

IV. STATUS OF AMENDMENTS

The status of the amendments is agreed to.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The summary of the claimed subject matter is agreed to.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-17 are rendered obvious by United States Patent No. 5,742,833 to Dea et al. in view of United States Patent Application Publication No. 2002/0097720 to Goodman et al. under 35 U.S.C. §103(a).

VII. ARGUMENTS

Claims 1-17 are rejected under U.S.C. §103 as being unpatentable over Dea in view of Goodman et al. Appellants respectfully traverse the rejections.

A. Appellant argues that there is no suggestion to combine the references.

In the Examiner's Answer, the argument is continued that there is sufficient basis within the references for one of ordinary skill in the art to find a suggestion that Dea and Goodman are to be combined to form the claimed invention. Appellants continue to traverse this argument. The requirement still exists that there be something within the references suggest combining them other than the mere fact that all the elements can be found within the cited references. See KSR Int'l Co. v. Telefax Inc., 550 U.S. ___, 14-15 (2007). Appellants respectfully submit that the only similarity between Dea and Goodman that could remotely suggest that they be combined is that they both relate to networks or communication systems. But this similarity is not enough to sustain a finding that these references can be combined as the systems are vastly different. Dea is related to programmable power management within a network, which is unrelated to the maintaining registration devices on a CAN bus by routing registration information, routing periodic heartbeat messages to maintain its registration status and routing messages on a discrete bases over the CAN bus to control the peripheral devices, while Goodman is related to a nodal library system and discloses the CAN bus. Appellants respectfully assert that the miniscule similarity between Dea and Goodman, i.e. networks, is wholly insufficient to suggest that one of skill in the art would look to these divergent references to create the claimed invention.

B. Appellant argues that the differences between Dea's network and a CAN bus does not teach or suggest the claimed invention.

In the Examiner's Answer, it is stated that "Appellants argue that Dea does not teach or suggest the use of a CAN bus." This is countered by a demonstration that Goodman does disclose a CAN bus. It is clear that Dea does not disclose the CAN bus, as agreed by the Examiner ("the shortcoming of Dea's teaching of not explicitly teach

[sic] that devices communicate over the controller area network (CAN bus”) and that this is overcome by citing Goodman. Goodman discloses devices communicating over a CAN bus. Nonetheless, Appellants argument is that there is no reason given within Dea for a person of ordinary skill in the art to look to Goodman to overcome Dea’s deficiency of failing to disclose a CAN bus. Appellants claimed invention is not to programmable power management within a network but includes routing registration information from a plurality of processor-enabled peripheral devices to a controlling software component; routing a periodic heartbeat message from the controlling software component to the plurality of processor-enabled peripheral devices to enable each of the plurality of processor-enabled peripheral devices to maintain its registered status and if necessary, routing messages from the controlling software component to one or more of the plurality of processor-enabled peripheral devices on a discrete basis over the CAN bus to control the one or more of the plurality of processor-enabled peripheral devices. In other words, Appellants argue that the power management system using an Ethernet network as disclosed by Dea does include any inspiration for a person of ordinary skill in the art to focus on Goodman to include a CAN bus and arrive with the Appellants’ claimed invention.

C. Appellants argue that Goodman does not teach or suggest a combination with the method of improving energy efficiency of Dea.

In the Examiner’s Answer it is suggested that Appellants argue that “improving energy efficiency” is being read into the claims. Appellants traverse this argument and have not suggested that the claims are directed to this subject matter. Appellants refer to Dea’s improving energy efficiency techniques to describe why one of ordinary skill in the art would refer to and use Dea as a reference and a teaching tool. Dea is directed to this subject matter. This subject matter is different than to what the Appellants claims are directed, e.g. routing registration information. Thus, Appellants are arguing that there are distinct differences in the subject matter of the claims and the cited reference that would cause one of ordinary skill in the art not to rely on Dea as a reference. In light of these differences, Appellants also assert that as Dea is related to energy efficiency that one of ordinary skill in the art would combine this reference with other references that disclose

energy efficiency techniques. And this does not include Goodman. Thus, Appellants describe how Dea discloses energy efficiency techniques to show the limitations of Dea to the claimed invention and how there is not suggestion within its description to combine it with Goodman.

D. Appellants argue that Dea and Goodman are not analogous arts and are not in the same field of endeavor.

Appellants have argued extensively above and in previous papers that there are vast differences between the Ethernet system as disclosed by Dea and the CAN that is disclosed by Goodman. Upon close inspection, the similarity between the two references is only that Dea and Goodman disclose communication networks. Based on this limited similarity, Appellants argue that the references are not analogous. Moreover, Appellants argue that there needs to be something within Dea or Goodman to suggest that the references can be combined to disclose, teach or otherwise suggest the claimed invention. In the Examiner's Answer, it is suggested that both Dea and Goodman are capable of transmitting messages to nodes. This is true of all networks and communication systems and is another way of saying that the only similarity between the references is that they disclose communication networks. Appellants therefore continue to submit that the cited references are not analogous, and one of ordinary skill in the art, therefore, would not combine them into the claimed invention.

Summary

For the above reasons and the reasons given in Appellant's Appeal Brief, Appellants respectfully submit that the rejection of claims 1, 6 and 12 under 35 U.S.C. §103(a) as being unpatentable over Dea in view of Goodman is in error and should be reversed and the claims allowed.

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VIII. CLAIMS APPENDIX

The claims are as filed with Appellant's Appeal Brief.

IX. EVIDENCE APPENDIX

No evidence has been submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, nor has any other evidence been entered by the Examiner and relied upon by the Appellants.

X. RELATED PROCEEDINGS APPENDIX

The Appellants and Appellants' representative know of no other appeal, interference, or judicial proceeding that may be related to, directly affect or be directly affected by, or have a bearing upon the Board's decision in the pending appeal.

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Please charge any fees associated herewith, including extension of time fees, to
50-2117.

Respectfully submitted,
Anderson, Thomas Michael, et al.

SEND CORRESPONDENCE TO:

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